

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	10-00102-01-CR-W-DW
LARRY RICK MIKAWA,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On March 7, 2012, the Honorable Dean Whipple found defendant Mikawa to be incompetent to understand the nature and consequence of the proceedings against him and to properly assist in his defendant (pursuant to 18 U.S.C. § 4241). Further, Judge Whipple ordered that defendant Mikawa continue to be committed to the custody of the Attorney General for hospitalization and treatment for a reasonable period to determine whether there was a substantial probability that in the foreseeable future, defendant Mikawa would attain the capacity to permit the trial to proceed.

The Court has received the psychological or psychiatric report of Dr. Kwanna Williamson, Staff Psychiatrist, and Carlton Pyant, Ph.D., which concluded that the defendant is competent to understand the nature and consequence of the proceedings against him and to assist properly in his defense. This report has been provided to and reviewed by counsel for the government and counsel for the defendant. On August 14, 2012, a hearing was held pursuant to 18 U.S.C. § 4247(d) for the purpose of determining the mental competency of the defendant to stand trial. At this hearing, counsel for the government and counsel for the defendant stipulated

that the Court could consider the psychological or psychiatric report of Dr. Kwanna Williamson and Dr. Carlton Pyant as if Drs. Williamson and Pyant had appeared in person and testified under oath. No additional evidence was offered by the government or by the defendant.

Based on the record before the Court and the findings of Dr. Kwanna Williamson and Dr. Carlton Pyant, it is

RECOMMENDED that the District Court, after conducting its own independent review of the record, find that defendant Mikawa is competent to understand the nature and consequence of the proceedings against him and to assist properly in his defense.

Counsel are reminded that each has 14 days from the date of receipt of a copy of this Report and Recommendation to file and serve specific objections to the same. A failure to file and serve timely objections shall bar attack on appeal of the factual findings in this Report which are accepted or adopted by the District Judge except upon the ground of plain error or manifest injustice.

/s/ **JOHN T. MAUGHMER**

JOHN T. MAUGHMER
United States Magistrate Judge

Kansas City, Missouri